

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on April 2, 2004. Per Rule 133.307(d)(1) date of service of 01/27/03 is untimely and outside the jurisdiction of Medical Review.

The IRO reviewed an office visit, office visit with manipulation, conference by the physician, manipulation, each additional area; special services and supplies and materials rendered from 04/15/03 through 10/02/03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 6, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 99080-73 for dates of service 07/02/03 through 10/01/03. The carrier denied the Work Status Report with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, per Rules 129.5 and 133.106 reimbursement in the amount of \$60.00 (\$15.00 x 4) is recommended.
- CPT Code 99358-52 for date of service 08/22/03 denied as "N – Not appropriately documented". In accordance with Rule 133.307(g)(3)(B) the

requestor did not submit relevant information to support the services were rendered as billed. Therefore, reimbursement is not recommended.

- CPT Code 98940 for date of service 10/02/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Therefore, the disputed service will be reviewed according to the appropriate fee guideline. Per Rule 134.202(b) and the Medicare Fee Schedule reimbursement in the amount of \$33.08 (\$26.46 x 125%) is recommended.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 04/15/03 through 10/02/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision & Order is hereby issued this 30th day September 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf  
Enclosure: IRO Decision

June 15, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2426-01  
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc

for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

\_\_\_ initially injured his low back while trying to move a 55-gallon drum. His MRI displayed an annular bulge at L4/5 and he had positive EMG findings of L3 and L5 radiculopathy bilaterally. The records reflect that this patient had been seen by RME doctors and designated doctors and found to not be at MMI. The records reflect that in the autumn of 2003 this patient was awaiting low back surgery but was having problems with insurance approval.

### DISPUTED SERVICES

Under dispute is the medical necessity of office visits, office visits with manipulation, conference, manipulation of other areas, special services, supplies and materials provided from 04/15/03 through 10/02/03.

### DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

The items in dispute in this case are indeed medically necessary. The patient was not found to be at MMI and still was awaiting further treatment on his condition. The treating doctor's notes indicate that he was treated to "relieve the effects naturally resulting from the injury, and promote recovery." The Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, and the Trailblazers, a Center for Medicare and Medicaid Systems Contractor March 14, 2003 Physical Medicine and Rehabilitation for Orthopedic and Musculoskeletal and Neurologic Injuries, Medicare Newsletter were utilized in the evaluation of this case.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,

Nan Cunningham  
President/CEO

CC: Ziroc Medical Director